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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,402	01/31/2001	Dan Vassilovski	000213	4234
23696	7590	06/14/2004	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			PAN, YUWEN	
			ART UNIT	PAPER NUMBER
			2682	8

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,402

Applicant(s)

VASSILOVSKI ET AL.

Examiner

Yuwen Pan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments filed 3/29/04 have been fully considered but they are not persuasive.

The applicant argues that Lim reference doesn't teach the recitation of "routing said asynchronous data communication to said second wireless communication device without the use of a modem if said initial communication comprises a request to initiate said asynchronous communication and said second wireless communication device is operating within said wireless communication system." Also, the phrase "without the use of...said asynchronous communication" is in italic and the applicant further emphasized that the "if" statement in the recitation is used to determine whether it is necessary to use a modem or not.

Before getting in the argument, the examiner likes to analyze the recitation first. The examiner interprets the recitation as that if an initial communication from a first wireless communication device operating in a wireless communication system comprises a request to initiate an asynchronous data communication, then *routing said asynchronous data communication to said second wireless communication device without the use of a modem*. In another words, the necessary part of the conditional statement is "routing said asynchronous data communication to said second wireless communication device without the use of a modem" instead of "without the use of a modem" only.

Furthermore, according the specification, on page 3 and lines 20-27, it seems that to determined whether a modem will be used is based on whether the second wireless device is operated in the same wireless communication system as the first wireless device.

Based on the interpretation of the examiner and discrepancy between the specification and applicant's remarks, the examiner respectfully disagrees because the prior art of record clearly teaches the recitation.

In the light of foregoing, the previous rejection sustains.

DETAILED ACTION

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5 rejected under 35 U.S.C. 102(e) as being anticipated by Lim
(US006349224B1).

With respect to claim 1 and 4, Lim discloses an apparatus and method for providing fast mobile connectivity during a data communication (see column 3 and lines 7-40), comprising:

Receiving an initial communication from a first wireless communication device operating in a wireless communication system (see figure 5);

Determining if an initial communication from a first wireless communication device operating in a wireless communication system comprises a request to initiate a data communication (See column 4 and lines 30-46);

Determining an identification code associated with a second wireless communication device, said identification code determined from said initial communication (see column 46-49);

Determining if said second wireless communication device is operating within said wireless communication system (see column 4 and lines 50-66); and

Routing said data communication to said second wireless communication device without the use of an IWU that is a bank of modems if said initial communication comprises a request to initiate said data communication and said second wireless communication device is operating within said wireless communication system (see column 4 and lines 66-column 5 and line 14).

It is inherent that the whole process needs a processor and storage device to execute information.

With respect to claim 2, 3 and 5, it is inherent that every conventional wireless communication system comprising: a database including HLR and VLR, MSC or BSC. And the function of database is to keep tracking the terminal users within the system either visitor or home and inform either the MSC or the BSC whether to do switch locally or to other parties.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,


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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yuwen Pan whose telephone number is 703-305-7372. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 703-308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yuwen Pan
June 7, 2004


VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600